IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

INCOME TAX APPEAL NO. 142 OF 2003

M/s.Skylark Traders Pvt.Ltd. Appellant
vs.
The Assistant Commissioner of Income-tax,
Circle 1(5), Bombay Respondent

Mr.Sunil Lala for the appellant.

Mr.B.M.Chatterjee with Mr.V.H.Kantharia i/b. Mr.P.Kapur
for the respondent.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 11th October 2004

P.C.

Heard Mr.Sunil Lala, the learned counsel for the appellant and perused the impugned order and the judgments of the Supreme Court relied upon by the learned counsel for the appellant in the cases of State of Andhra Pradesh v. M.Ramakishtaiah & Co., 93 Sales Tax Cases 406; Town Municipal Council, Athani v. Presiding Officer, Labour Court, Hubli & oprs., A.I.R.1969 SC 1335; Grasim Industries Ltd. v. Collector of Customs, Bombay, (2002) 4 S.C.C. 297 and Union of India & Anr. v. British India Corporation Ltd. & ors., 268 ITR 481.

2. The order of the assessment is dated 19th March 1990 for the assessment year 1987-88. The learned counsel

for the appellant seeks to contend that since the order was served on the assessee on 18th September 1990, it must be presumed that the assessment order was not passed on 19th March 1990. We are unable to accept the submission of the learned counsel for the appellant. The appellant did not choose to appear before the Income Tax Appellate Tribunal in support of the appeal. The impugned order is dated 19th March 1990 and there is nothing on record on the basis of which presumption can be drawn that the order dated 19th March 1990 for the assessment year 1987-88 was in fact not made on 19th March 1990.

3. No substantial question of law arises in the appeal.

4. Dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)